BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN THE MATTER OF APPROPRIATE FRAMEWORK FOR BROADBAND ACCESS TO THE INTERNET OVER WIRELINE FACILITIES	§	**CC DOCKET NO. 02-33**
UNIVERSAL SERVICE OBLIGATIONS OF BROADBAND PROVIDERS	§	
COMPUTER III FURTHER REMAND PROCEEDINGS: BELL OPERATING COMPANY PROVISION OF ENHANCED SERVICES; 1998 BIENNIAL REGULATORY REVIEW - REVIEW OF COMPUTER III AND ONA SAFEGUARDS AND REQUIREMENTS	§	**CC DOCKET NOS. 95-20, 98-10**

REPLY COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TEXAS

NOW COMES THE STATE OF TEXAS (State), by and through the Office of The Attorney General of Texas, Consumer Protection Division and files these its reply comments on the Notice of Proposed Rulemaking released February 15Th, 2002 in FCC Order No. 02-42. These comments are timely filed pursuant to the Commission's subsequent orders in DA-02-704 and DA 02-1284.

The Office of the Attorney General submits these reply comments as the representative of state agencies and state universities as consumers of telecommunications services in the State of Texas, the enforcer of state laws prohibiting anti-competitive acts and practices, and the enforcer of laws for the protection of consumers in Texas. Our comments are limited to specific responses to the following commenters:

Information Technology Association of America.

We agree with the comments of this association that the unbundling obligations of ILECs should be preserved. As stated in our initial comments, we do not believe it is necessary or required to eliminate the classification of wireline broadband services as telecommunications services, at least for these limited purposes. The unbundling obligations are critical to the effective unfolding of effective competition, as recently held by the United States Supreme Court in *Verizon Communications, Inc. v. Federal Communications Commission*, May 13, 2002. In that opinion, Justice Breyer, writing for the majority, states " (t)he 1996 Act sought to bring competition to local-exchange markets, in part by requiring incumbent local-exchange carriers to lease elements of their networks at rates that would attract new entrants when it would be more efficient to lease than to build or resell." It is clear that this unbundling obligation is critical to the successful implementation of the act. Nothing thwarts this more clearly than the classification of high-speed transport as a pure information service. These obligations are the primary safeguard against competitive abuse.

Ohio Public Utility Commission.

We also agree with the comments of the Ohio PUC that the Commission would be radically changing course if it does not continue to regulate wireline broadband services as telecommunications services. We believe its approach of classifying DSL transport as a telecommunications service is a balanced way forward and allows the FCC to classify other types of wireline broadband service offerings as information services without adversely affecting the development of facilities-based competition.

California Public Utility Commission.

We agree with this commission that broadband internet access has both a telecommunications component and an information services component. As we stated in our original comments, there is no information component involved in simply providing high speed transport.

National Telecommunications Cooperative Association.

We agree with the cooperatives that to the extent a universal service obligation is imposed upon one mode of high speed access to the internet, it should be imposed upon all modes, including cable, wireless and satellite. This promotes a more equitable sharing of the burden of funding universal service and does not unnecessarily skew the price of one particular type of service.

Vermont Public Service Board.

We agree with the Board that the transmission of the service is clearly a telecommunications service and while the internet service may be an information service, the regulation of transmission will maintain essential consumer protections not available for pure information services.

Verizon.

We strongly disagree with the comments of Verizon that all broadband services should be exclusively classified as information services under Title 1. This exclusive classification would be harmful to consumers in that many consumer protections would no longer apply and the possibility of monopolization of service availability by one particular type of provider in a specific location would be increased. Additionally, we strongly disagree that the Commission should pre-empt the state role in broadband regulation. The Texas Public Utility Commission, as one example, has recently adopted rules, referenced in its reply comments, to promote broadband deployment.

Preemption of the states would have radical negative effects on their ability to conduct such activities.

The Office of the Attorney General of Texas appreciates this opportunity to provide reply comments on this Notice of Proposed Rulemaking.

Respectfully submitted,

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